

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID M. NANCE,	)	
	)	
	)	No. C08-1450 SI (BZ)
Plaintiff(s),	)	
	)	
v.	)	<b>SETTLEMENT CONFERENCE</b>
	)	<b>ORDER - PATENT CASE</b>
	)	
GEORGE SHENG, et al.,	)	
	)	
Defendant(s).	)	
_____	)	

The above matter was referred to me for settlement purposes.

On September 29, 2008, I conducted a telephonic hearing at which both sides were represented by counsel. With the consent of the parties and good cause appearing, **IT IS HEREBY ORDERED** that no later than **November 10, 2008**, Mr. Nance and Mr. Sheng shall meet in person, preferably outside the presence of counsel, to discuss a resolution of this dispute. They shall meet at any location to which they agree, failing agreement, they shall meet in my jury room. The principals are urged to

1 explore a creative, business resolution of their dispute. If  
2 the case settles, the parties are to notify the Court  
3 immediately.

4 Each party shall provide the other informally,  
5 expeditiously and pursuant to Federal Rule of Evidence 408 with  
6 all information reasonably needed to further the progress of  
7 the settlement negotiations. Confidential information may be  
8 provided subject to a protective order.

9 If there is no settlement, it is **ORDERED** that a telephonic  
10 conference is scheduled for **December 1, 2008 at 2:30 p.m.** to  
11 discuss the status of the negotiations. Counsel shall contact  
12 **CourtCall**, telephonic court appearances at **1-888-882-6878**, and  
13 make arrangements for the telephonic conference call. The  
14 principals need not participate.

15 It is further **ORDERED** that a Settlement Conference is  
16 scheduled for **Thursday, January 8, 2009 at 9:00 a.m.**, in  
17 Courtroom G, 15th Floor, Federal Building, 450 Golden Gate  
18 Avenue, San Francisco, California 94102. Counsel who will try  
19 the case shall appear at the Settlement Conference with the  
20 party principals who met earlier. The negotiations will be  
21 principally among the party principals in my presence.

22 Each party shall prepare a Settlement Conference  
23 Statement, which must be served on opposing counsel and lodged  
24 (not faxed) with my chambers no later than seven calendar days  
25 prior to the conference. The Statement shall **not** be filed with  
26 the Clerk of the Court. The Statement **may** be submitted on CD-  
27 ROM with hypertext links to exhibits. Otherwise, the portion  
28 of exhibits on which the party relies **shall** be highlighted.

1 The Settlement Conference Statement shall not exceed ten pages  
2 of text and twenty pages of exhibits and shall include the  
3 following:

4 1. A brief statement of the facts of the case.

5 2. A brief statement of the claims and defenses  
6 including, but not limited to, statutory or other grounds upon  
7 which the claims are founded.

8 3. A summary of any related litigation.

9 4. A summary of the proceedings to date and any pending  
10 motions.

11 5. An estimate of the cost and time to be expended for  
12 further discovery, pretrial and trial.

13 6. The relief sought, including an itemization of  
14 damages.

15 7. The parties' position on settlement, including  
16 present demands and offers and a history of past settlement  
17 discussions. The Court's time can best be used to assist the  
18 parties in completing their negotiations, not in starting them.  
19 So there is no confusion about the parties' settlement  
20 position, plaintiff must serve a demand in writing no later  
21 than fourteen days before the conference and defendant must  
22 respond in writing no later than eight days before the  
23 conference. The parties are urged to carefully evaluate their  
24 case before taking a settlement position since extreme  
25 positions hinder the settlement process.

26 Along with the Statement each party shall lodge with the  
27 court a document of no more than three pages containing a  
28 **candid** evaluation of the parties' likelihood of prevailing on

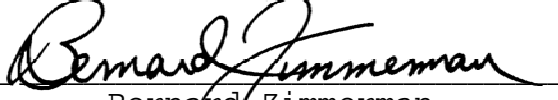
1 the claims and defenses, and any other information that party  
2 wishes not to share with opposing counsel. The more candid the  
3 parties are, the more productive the conference will be. This  
4 document shall not be served on opposing counsel.

5 It is not unusual for conferences to last three or more  
6 hours. Parties are encouraged to participate and frankly  
7 discuss their case. Statements they make during the conference  
8 will not be admissible at trial in the event the case does not  
9 settle. The parties should be prepared to discuss such issues  
10 as:

- 11 1. Their settlement objectives.
- 12 2. Any impediments to settlement they perceive.
- 13 3. Whether they have enough information to discuss  
14 settlement. If not, what additional information is needed.
- 15 4. The possibility of a creative resolution of the  
16 dispute.

17 The parties shall notify chambers immediately if this case  
18 settles prior to the date set for settlement conference.  
19 Counsel shall provide a copy of this order to each party who  
20 will participate in the conference.

21 Dated: October 10, 2008

22   
23 Bernard Zimmerman  
24 United States Magistrate Judge  
25  
26  
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